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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,357	12/17/2001	Andrea Michalik	2625-011763	2806

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Communication Re: Appeal

Application No.

10/023,357

Applicant(s)

MICHALIK, ANDREA

Examiner

Kent L. Bell

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on _____ is not acceptable because:

(a) ☐ it was not timely filed.

(b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).

(c) ☐ the appeal fee received on _____ was not timely filed.

(d) ☐ the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$_____.

(e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.

(f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. ☒ The appeal brief filed on 11/5/03 is NOT acceptable for the reason(s) indicated below:

(a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.

(b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).

(c) ☐ the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$_____.

(d) ☒ *The Claim set forth in the Appendix is not the same Claim of record.*
The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).

3. ☐ The appeal in this application is DISMISSED because:

(a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.

(c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.

(d) ☐ other: _____

4. ☐ Because of the dismissal of the appeal, this application:

(a) ☐ is abandoned because there are no allowed claims.

(b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.

(c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

**KENT BELL
PRIMARY EXAMINER**

Kent L. Bell